

Columbia and Snake River Mainstem TMDL
Draft Outline - Communication and Collaboration

1. Background

The purpose of the Columbia and Snake River Mainstem Total Maximum Daily Load (TMDL) is to understand the sources of total dissolved gas and temperature loadings and to allocate those loadings to meet state and tribal water quality standards. This is a task that will require careful coordination, cooperation, and management by all parties involved in this effort.

The complexity of the governance system is profound, involving Federal agencies, state agencies, Tribes, private entities, and Public Utility Districts. No single agency or Tribe can assert its jurisdiction and achieve a successful outcome. For example, total dissolved gas travels across international borders, through tribal and state jurisdictions, and is increased by passage over Federal, PUD, and private dams. Its one commonality is that it is harmful to fish and aquatic life at certain percentages of saturation. Temperature exceedances are perhaps even more complex in assessing causes and solutions.

2. Messages

- We all want to improve water quality for all uses we enjoy such as good habitat for fish and other aquatic life, fishing, boating, and swimming. A Columbia/Snake River Mainstem TMDL for temperature and dissolved gas is being developed to help restore the Columbia River system. A TMDL is a tool that develops a water quality improvement plan to improve water quality which is critical to supporting these important uses.
- The development of this Columbia/Snake River Mainstem water quality improvement plan brings together many local efforts and will require careful coordination and management by all parties. We want to support local efforts to improve water quality with this effort.
- In this TMDL, EPA is taking the lead on technical analysis of temperature and the States of Oregon, Idaho and Washington are taking the lead on total dissolved gas.
- EPA is taking the lead on coordination and consultation with Columbia Basin tribal governments. (See attached tribal consultation guidelines).
- TMDLs are required by the Clean Water Act. Specific schedules for developing the TMDLs have been developed by each state.
- These water quality improvement plans are particularly important environmentally, due to water quality problems and the presence of several salmon species listed under the federal Endangered Species Act. This effort will enhance and support the intense Columbia River fish restoration effort currently underway in the Columbia River Basin.
- Extensive and inclusive community involvement is critical to the process of developing and implementing stream improvement strategies.

3. Audience

Columbia Basin Tribes

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NPDES Dischargers

Municipalities

Watershed Councils and Regional Watershed Group

PUDs:

Grant County PUD
Douglas County PUD
Chelan County PUD
Pend Orielle PUD

Avista

Seattle City Light

Idaho Power

Utilities

Industrial Interest Group

Public Power Interest Groups

Agricultural Interest Groups

Forestry Interest Groups

County Interest Groups

City Interest Groups

Recreational Interest Groups

Environmental Groups

Northwest Power Planning Council

Port and Navigation Interest Groups

Irrigation

Bonneville Power Administration (BPA)

US Army Corps of Engineers (USACE)

US Bureau of Reclamation (USBOR)

US Fish and Wildlife Service (FWS)

US National Marine Fisheries Service (NMFS)

US Forest Service (USFS)

Bureau of Land Management (BLM)

B.C. Provincial and Canadian Federal Agencies

B.C. Hydropower operators

State government agencies

Congressional offices

Columbia Basin Forum

4. Detailed Description of Work Effort

EPA will:

- Develop the technical basis for the TMDL for temperature for the Snake/Columbia Mainstem using the CRBM 10 Model developed by EPA Region 10..
- Assure coordination of entire TMDL effort between all involved parties.

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EPA will work with the Colville Tribe, Spokane Tribes, and Nez Perce Tribe for the portions of the dissolved gas TMDL within Reservation boundaries.

Each State is expected to produce:

- The TMDL for total dissolved gas for their waters in cooperation with the dam operators within their boundaries. Oregon Department of Environmental Quality and Washington Department of Ecology will collaborate on the total dissolved gas TMDL for the interstate portions of the Columbia River.

EPA will participate in the states' total dissolved gas TMDLs for consistency of approach, assistance in coordinating a system wide approach to realize water quality benefits, assistance with Federal project implementation, approvability of the final product, and assistance in securing the cooperation of applicable Federal agencies. The States and Tribes are encouraged to engage Federal, private, and PUD dam operators in their TMDL development process.

The Federal Action Agencies (USBOR, USACE, and BPA) will be asked to provide data, technical/financial assistance and general support for the state and EPA efforts. The Federal Action Agencies have resources and expertise essential to the success of this effort. Interested and affected Tribes are invited to participate and lend their expertise to the effort. EPA will coordinate tribal involvement. EPA will provide the leadership with the states and Tribes to collaborate and cooperate on mainstem TMDL public involvement.

Possible state implementation mechanisms that could be used to achieve the allocations in the TMDL include changes in the construction or operation at dams, FERC licenses, Biological Opinions, NPDES permits, consent decrees, waivers/variances, habitat conservation plans, or other agreements. Where Congressional appropriations are required, Action agencies will be expected to seek funding in good faith.

Although, not a part of the TMDL, EPA will work with assistance from Washington DOE regarding the Canadian water use planning and hydro power licensing process. EPA will seek a mechanism to incorporate United States and Tribal water quality standards in Canadian licenses so that those standards are met at the United States/Canadian border.

5. Detailed Strategy:

- ◆ EPA will be the lead for communication and collaboration on the development of the Columbia/Snake Mainstem temperature and dissolved gas TMDL. EPA will work with the states and Tribes to establish detailed communication plans and protocols. Communication and collaboration actions will occur at two levels; informal and formal. Informal public meetings and information sharing will occur throughout the development of the TMDL.
- ◆ Formal public meetings and public record will occur with a draft TMDL. An administrative record and file will be maintained to ensure relevant letters and decisions are recorded as a part of the formal public meetings and record.
- ◆ EPA will pursue contractual funding to support the maintenance of the administrative record and the public meeting process.
- ◆ The NMFS ESA Forum - Water Quality Team and Implementation Team will serve as an informal "overall advisory group" for communication, updates, and discussion on major milestones on the TMDL. These meetings are held in an "open meeting" process. Key groups may be invited to meetings when appropriate.

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- ◆ The CWA Water Quality Team will serve as a forum for public involvement on the TMDL and will meet in various locations regionally.
- ◆ Separate meetings will be held with interest, industry and environmental groups as appropriate. These meetings could occur at interest group forums.
- ◆ Tribal coordination meetings will be held with affected tribes. The Spokane and Colville Tribes, having Columbia River water quality standards, will be considered as participating tribal governments. Tribal consultations will be held as appropriate, primarily to share information on the final TMDL.
- ◆ EPA will coordinate with FERC as appropriate.
- ◆ EPA, states and Tribes will use pre-decisional meetings to share information on key decision points and technical issues. These informal meetings can provide a forum for decision points and milestones to get interaction.
- ◆ EPA, states and Tribes will use printed materials, brochures and fact sheets, both focused and general, to share information on the TMDL development. A general fact sheet dated January 19, 2001, is attached to this strategy. The Water Quality Team mailing list will be expanded and used as appropriate.
- ◆ A web page will be developed at EPA to provide timely information on work efforts.

6. Outreach Planning To-date - (February 2, 2001):

- ◆ TMDL Workshop (open to public) November 28, 2000, Portland - over 200 invitees
- ◆ Columbia River Tribal TMDL Workshop - November 17-18, 2000
- ◆ Meeting with Corps, Bureau and BPA, January 12, 2001, Portland
- ◆ Presentation to NMFS Implementation Team, January 11, February 8, April 5, Portland
- ◆ Presentation to Water Quality Team, January 16, March 14, April 3, Portland
- ◆ Meeting with Corps, Bureau and BPA, January 30, 2001, Portland
- ◆ Meeting with Grant County PUD, February 2, 2001
- ◆ Meeting with Mid-Columbia PUDs, February 14, 2001
- ◆ Meeting with Pulp and Paper Association, February 27, 2001
- ◆ Meeting with East Columbia Irrigation District, March 9, 2001
- ◆ Meeting with Mid-Columbia PUDs - March 13, 2001
- ◆ Transboundary Gas Group - April 5, 2001

9. Technical Contacts/Phone Numbers:

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**U.S. ENVIRONMENTAL PROTECTION AGENCY- REGION 10
TRIBAL CONSULTATION FRAMEWORK**

February 4, 2000

DRAFT

WORKING DEFINITION OF TRIBAL CONSULTATION

"Consultation" means the process of seeking, discussing, and considering the views of federally recognized tribal governments at the earliest time in EPA Regions 10's decision-making. Consultation generally means more than simply providing information about what the Agency is planning to do and allowing comment. Rather, consultation means two-way communication that works toward a consensus reflecting the concerns of the affected federally recognized tribe(s).

DRAFT GUIDING PRINCIPLES

34. The Region will consult with federally recognized tribal governments in a sensitive manner respectful of tribal sovereignty.
35. The Region will maintain government-to-government communications with federally recognized tribal governments by interacting through officials of appropriate stature and authority.
36. In situations where EPA has the ultimate decision-making authority, federal policies direct EPA to consult with affected federally recognized tribal governments prior to making decisions. The Region will work within the following guidelines when deciding how to consult with federally recognized tribes:
 - ◆ When the matter may directly affect the environment, resources, treaty rights or other legal rights of a specific or small number of federally recognized tribes, EPA will meet with, have conference calls, and send letters to tribal leaders of the affected individual tribe(s).
 - ◆ When seeking perspectives from all interested federally recognized tribes in the Region on national or broad Regional issues, EPA will meet with, or have a conference call, or solicit written comments in a letter from EPA;
 - ◆ When looking for broad guidance on tribal policy or implementation matters of national or Regional interest either at a preliminary stage or requiring fast turn-around, EPA will rely on the Regional Tribal Operations Committee for

assistance and input;

4. On specific matters, the Region should contact potentially affected federally recognized tribes as early as practicable, to provide time for consultation prior to making a decision.
5. The Region will encourage regular participation of federally recognized elected tribal representatives or their designees on Regional planning groups.
6. The Region should notify directly federally recognized tribe(s) where specific tribal interest or trust resources may be involved, and offer the respective tribe(s) an opportunity to participate without resolving whether the tribe(s) has a legal right to consultation.
7. The Region will meet with individual federally recognized tribes upon request of the tribe's leaders.
8. The Region should endeavor to build an on-going relationship with each federally recognized tribal government to increase communication, and to ensure that consultation on specific proposals will be more constructive and effective.
9. The Region will encourage meetings with federally recognized tribal governments on their homelands, to the extent resources allow, to strengthen the EPA federal-tribal relationship and facilitate EPA understanding of respective tribal issues, concerns and perspectives.
10. Public participation which involves individual citizens of Indian Country, is not the same as consultation with affected federally recognized tribal governments. EPA has the responsibility to consult with federally recognized tribal governments separate from, and in addition to, the public participation process for interested stakeholders.
11. Consultation with tribal governments, which should occur prior to the public participation process, does not replace requirements to promote public participation that may apply to a given proposed federal action.

ISSUE RESOLUTION

Should disputes arise between one or more tribes and EPA Region 10, the parties will strive to address the matter informally, at the staff level. In the event that staff are unable to resolve a dispute, the issue will be presented to immediate supervisors, who will attempt to resolve the dispute. If the dispute is not resolved, the staffs will present the matter to progressively higher levels of management until consensus is reached. In the event consensus is not reached, the EPA Regional Administrator, after consulting with the elected leader(s) of the federally recognized Tribe(s), will make the final decision.